HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 27965 of 2007

Dated 28th December, 2007

Between
Pllamarasetti Appalamarasamma

…Petitioner

and

The Additional Agent to Government,
Rampachodavaram, EG District, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 27965 of 2007

ORDER:

This Writ Petition is filed with the prayer as follows:

"……to issue appropriate Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the ction of the respondents in evicting the petitioner from the land to an extent of Ac.2.73 cents in Sy.No.95/1 situated at Pedabhimpalli village, Devipatnam Mandal, EG District, as highly illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently set aside all further proceedings initiated by the respondents in pursuance of the order passed by the second respondent in ADO LTR No.48/2007 dated 15-10-2007 including eviction pending disposal of the appeal filed before the first respondent under the provisions of AP Scheduled Areas Land Transfer Regulations in the interest of justice and to pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case"

The petitioner claims to be the owner and possessor of the land to an extent of Ac.2.73 cents covered by Sy.No. 95/1 of Pedabhimpalli village, Devipatnam Mandal in East Godavari District. It is stated that the said land was purchased by the petitioner from its previous owner, a non-tribal, by an agreement of sale deed dated 29-6-1969 and subsequently registered vide document No.602/1972. It is stated that, though the said transaction was not hit by A.P. Scheduled Areas Land Transfer Regulation 1/1959, as amended by Regulation 1/1970, but however, proceedings were initiated against the petitioner and the primary authority-second respondent, by order dated 15-10-2007 passed in Proceedings No.ADOLTR.No.48/2007 ordered eviction of the petitioner and directed to take custody of the said land into Government, and, to assign the same to eligible tribes. It is further stated that as against the said order of the primary authority, the petitioner preferred appeal on 30-11-2007 as contemplated under Regulation 8(1) of the A.P. Scheduled Areas Land Transfer Regulation 1/1959, along with an application for grant of stay and the same is pending consideration. On the ground that in spite of the appeal filed by the petitioner, no orders have been passed and on other hand, respondents are taking steps for eviction of the petitioner, she has come up with this Writ Petition

Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents.

Whether the purchase of the subject land by the petitioner is in contravention of the A.P. Scheduled Areas Land Transfer Regulation

1/ 1959, as amended by Regulation 1/1970 or not, is a matter which is required to be considered by the appellate authority. In view of the pendency of the appeal, it is not desirable to record any finding on the said transaction at this stage. As much as, it is stated that the petitioner purchased the subject land in the year 1969 and the appeal filed by her before the appellate authority is pending consideration, I deem it appropriate to hold that any eviction at this stage will result in hardship to the petitioner. In that view of the matter, I dispose of the Writ Petition directing the first respondent-appellate authority to dispose of the appeal filed by the petitioner on 30-11-2007 as expeditiously as possible, by giving opportunity to the petitioner. Till the disposal of the said appeal, the order dated 15-10-2007 passed by the second respondent shall remain suspended and there shall be a further direction to the respondents to allow the petitioner to be in possession of the subject land, pending disposal of the appeal

Subject to the above direction, the Writ Petition is disposed of at the admission stage. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 28-12-2007
Note: CC in two days
(BO) Msnr.